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EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

11/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 9/11/09 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the IDS was not filed before the final office action. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Response to Arguments

2. Applicant's arguments with respect to claims 1-5 filed 10/21/09 have been fully considered but they are not persuasive.

3. Claims 6-8 require further search and/or consideration based on amendments.

4. Applicant argues in Claim 1, the finger position detecting mechanisms detect "that a finger of an operator is placed on one of said operation keys even if none of said operation keys is fully depressed." This limitation of Claim 1 is not disclosed in the cited prior art.

5. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

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6. Applicant further argues that Shimabukuro does not remedy the above deficiency of the Tomohide reference. Instead, Shimabukuro simply discloses a function of detecting a touch by using a finger. However, nothing in Shimabukuro teaches or even suggests a detecting mechanism associated with operation keys and detecting that a finger of an operator is placed on one of the operation keys, as recited in Claim 1.

7. However, The Examiner respectfully disagree. Shimabukuro teaches

“A third control means for detecting a state wherein the key is pressed after the finger touched the key and controlling display of the cellular phone set in a third state on the basis of the detected state; and

fourth control means for detecting a state wherein the finger is moved away from the key after the key was pressed and controlling display of the cellular phone set in a fourth state on the basis of the detected state”

See also description with respect to figure 5

8. Applicant argues Shimabukuro does not disclose a function of changing an icon which is included in the image of the operation keys and which corresponds to one of the operation keys on which the operator places his/her finger when the control section determines, according to an input signal from the finger position detecting mechanisms, that the finger of the operator is placed on one of the operation keys.

9. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

10. Therefore Claim 1 is not allowable over the cited prior art.

11. Since each of Claims 2-6 is directly or indirectly dependent upon independent Claim 1, each of Claims 2-6 is not allowable at least for the same reasons as Claim 1.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES SHEDRICK whose telephone number is (571)272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles Shedrick/
Examiner, Art Unit 2617

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617